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ALPHA & OMEGA SEMICONDUCTOR, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ALPHA & OMEGA SEMICONDUCTOR,  
LTD., a Bermuda corporation; and  
ALPHA & OMEGA SEMICONDUCTOR,  
INC., a California corporation,

Plaintiffs,

v.

FAIRCHILD SEMICONDUCTOR  
CORPORATION, a Delaware corporation,

Defendant.

**C07 02638<sup>PVT</sup>**

Case No.

**COMPLAINT FOR PATENT  
INFRINGEMENT AND DECLARATORY  
JUDGMENT**

**DEMAND FOR JURY TRIAL**

Plaintiffs ALPHA & OMEGA SEMICONDUCTOR, LTD. ("AOS, Ltd.") and ALPHA &  
OMEGA SEMICONDUCTOR, INC. ("AOS, Inc.") (collectively "AOS") allege as follows:

**PARTIES**

1  
2 1. Plaintiff AOS, Ltd. is a Bermuda corporation with its principal place of business in  
3 Taipei, Taiwan.

4 2. Plaintiff AOS, Inc. is a California corporation in good standing with its principal  
5 place of business at 495 Mercury Drive, Sunnyvale, California 94085. AOS, Inc. is qualified and  
6 duly authorized to conduct business in the State of California.

7 3. On information and belief, defendant FAIRCHILD SEMICONDUCTOR  
8 CORPORATION ("Fairchild") is a Delaware corporation with its principal place of business at  
9 82 Running Hill Road MS 35-4E, South Portland, ME 04106.

10 **JURISDICTION AND VENUE**

11 4. This is an action arising under the patent laws of the United States, 35 U.S.C. §§ 1  
12 *et seq.*, for infringement by Fairchild of patents owned by AOS, and the Declaratory Judgment  
13 Act, 28 U.S.C. §§ 2201 and 2202. This Court has jurisdiction over the subject matter of this  
14 action pursuant to 28 U.S.C. §§ 1331 and 1338.

15 5. This Court has personal jurisdiction over Fairchild because Fairchild has engaged  
16 in sufficient contacts with the State of California to satisfy both the requirements of due process  
17 and Rule 4(k)(2) of the Federal Rules of Civil Procedure. Fairchild has design facilities located in  
18 San Jose, California. In addition, Fairchild has intentionally engaged in contacts with California  
19 involving Fairchild patents. These contacts include directing multiple written and oral  
20 communications to AOS in California regarding AOS's business and Fairchild's patents.  
21 Fairchild further established contacts by engaging in extensive negotiations with AOS relating to  
22 Fairchild's patents and concurrently threatening to sue AOS for infringement of those patents.

23 6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) & (c) and  
24 1400(b).

25 **INTRADISTRICT ASSIGNMENT**

26 7. Under Local Rule 3-2(c), this action for patent infringement and declaratory  
27 judgment shall be assigned on a district-wide basis, notwithstanding the fact that a substantial part  
28 of the events that give rise to the claims alleged herein occurred in Santa Clara County, in the San

Jose Division of this Court.

### GENERAL ALLEGATIONS

8. AOS produces and sells over 100 power transistor products. AOS owns valuable intellectual property rights in semiconductor technology.

9. Among these intellectual property rights are the following United States patents:

(A) U.S. Patent No. 5,907,776 (the “776 patent”), duly and legally issued by the Patent and Trademark Office on May 25, 1999, entitled “Method of forming a semiconductor structure having reduced threshold voltage and high punch-through tolerance.” A true and correct copy of the ‘776 patent is attached to this Complaint as Exhibit 1 and is incorporated herein by reference.

(B) U.S. Patent No. 5,767,567 (the “567 patent”), duly and legally issued by the Patent and Trademark Office on June 16, 1998, entitled “Design of device layout for integration with power mosfet packaging to achieve better lead wire connections and lower on resistance.” A true and correct copy of the ‘567 patent is attached to this Complaint as Exhibit 2 and is incorporated herein by reference.

10. The ‘776 and ‘567 patents were duly issued and are owned by AOS. AOS has the full legal right to sue, enforce, and recover damages for all infringement of these patents.

11. Fairchild has alleged that AOS, by its manufacture, offers for sale, and/or sales of power semiconductor products infringes the following patents:

(A) U.S. Patent No. 6,429,481 (the “481 patent”), issued on August 6, 2002, entitled “Field effect transistor and method of its manufacture.” A true and correct copy of the ‘481 patent is attached to this Complaint as Exhibit 3 and is incorporated herein by reference.

(B) U.S. Patent No. 6,710,406 (the “406 patent”), issued on March 23, 2004, entitled “Field effect transistor and method of its manufacture.” A true and correct copy of the ‘406 patent is attached to this Complaint as Exhibit 4 and is incorporated herein by reference.

12. Fairchild has sent a series of letters demanding that AOS enter into a license for

1 Fairchild's technology. These letters have accused AOS products of infringing the '481 patent  
 2 and the '406 patent. This correspondence has created apprehension in AOS that Fairchild intends  
 3 to sue AOS if AOS refuses to enter into a license. AOS does not believe it infringes the Fairchild  
 4 patents and does not need a license.

5 13. On information and belief, AOS has learned that Fairchild representatives have  
 6 advised customers of AOS of Fairchild's plans to sue AOS if AOS does not enter into a license  
 7 agreement.

8 14. AOS denies that it infringes any valid and enforceable claim of any of the  
 9 Fairchild patents.

10 15. An actual and justiciable controversy exists between Fairchild and AOS  
 11 concerning whether AOS infringes any valid claim of the Fairchild patents. AOS now seeks a  
 12 declaratory judgment that the claims of the Fairchild patents are invalid and that AOS does not  
 13 infringe any valid claim of the Fairchild patents.

#### 14 **FIRST CLAIM FOR RELIEF**

15 (Infringement of United States Patent No. 5,907,776 by Fairchild)

16 16. AOS realleges and incorporates by reference the allegations stated in paragraphs 1  
 17 through 10 of this Complaint.

18 17. Fairchild has been and still is infringing the '776 patent by making, using, offering  
 19 for sale and/or selling products in the United States that embody or otherwise practice one or  
 20 more of the claims of the '776 patent, or by otherwise contributing to infringement or inducing  
 21 others to infringe the '776 patent.

22 18. On information and belief, Fairchild's infringement has taken place with full  
 23 knowledge of the '776 patent and has been intentional, deliberate, and willful.

24 19. On information and belief, Fairchild will continue to infringe the '776 patent  
 25 unless and until it is enjoined by this Court.

26 20. As a direct result of Fairchild's infringing activities, AOS has suffered damages,  
 27 including, but not limited to, lost profits in an amount not yet ascertained. AOS is entitled to  
 28 recover damages adequate to compensate AOS for Fairchild's infringing activities in an amount

1 to be determined at trial in an accounting, but in no event less than a reasonable royalty, together  
2 with interest and costs.

3 **SECOND CLAIM FOR RELIEF**

4 (Infringement of United States Patent No. 5,767,567 by Fairchild)

5 21. AOS realleges and incorporates by reference the allegations stated in paragraphs 1  
6 through 10 of this Complaint.

7 22. Fairchild has been and still is infringing the '567 patent by making, using, offering  
8 for sale and/or selling products in the United States that embody or otherwise practice one or  
9 more of the claims of the '567 patent, or by otherwise contributing to infringement or inducing  
10 others to infringe the '567 patent.

11 23. On information and belief, Fairchild's infringement has taken place with full  
12 knowledge of the '567 patent and has been intentional, deliberate, and willful.

13 24. On information and belief, Fairchild will continue to infringe the '567 patent  
14 unless and until it is enjoined by this Court.

15 25. As a direct result of Fairchild's infringing activities, AOS has suffered damages,  
16 including, but not limited to, lost profits in an amount not yet ascertained. AOS is entitled to  
17 recover damages adequate to compensate AOS for Fairchild's infringing activities in an amount  
18 to be determined at trial in an accounting, but in no event less than a reasonable royalty, together  
19 with interest and costs.

20 **THIRD CLAIM FOR RELIEF**

21 (Non-Infringement of United States Patent No. 6,429,481)

22 26. AOS realleges and incorporates by reference the allegations stated in paragraphs 1  
23 through 15 of this Complaint.

24 27. AOS is not directly infringing, contributorily infringing, or actively inducing  
25 others to infringe any valid and enforceable claim of the '481 patent as properly construed.

26 **FOURTH CLAIM FOR RELIEF**

27 (Non-Infringement of United States Patent No. 6,710,406)

28 28. AOS realleges and incorporates by reference the allegations stated in paragraphs 1

through 15 of this Complaint.

29. AOS is not directly infringing, contributorily infringing, or actively inducing others to infringe any valid and enforceable claim of the '406 patent as properly construed.

**PRAYER FOR RELIEF**

WHEREFORE, AOS prays that this Court:

A. As to the First and Second Claims for Relief,

(1) enter a judgment that Fairchild has infringed, contributorily infringed, and actively induced others to infringe the '776 and '567 patents;

(2) grant a permanent injunction restraining and enjoining Fairchild, its officers, directors, agents, servants, employees, successors, assigns, parent, subsidiaries, affiliated or related companies, and attorneys from infringing, inducing others to infringe, and contributing to the infringement of the '776 and '567 patents;

(3) award AOS damages in an amount sufficient to compensate AOS for Fairchild's infringement, contributory and active inducement of others' infringement of the '776 and '567 patents, but not less than a reasonable royalty;

(4) award pre-judgment interest to AOS pursuant to 35 U.S.C. § 284; and

(5) award increased damages, pursuant to 35 U.S.C. § 284, in an amount not less than three times the amount of actual damages awarded to AOS, by reason of Fairchild's willful infringement of the '776 and '567 patents;

B. As to the Third and Fourth Claims for Relief,

(1) enter a declaratory judgment that the manufacture, use, sale, or offer for sale of AOS's product(s) does not infringe any valid claim of the Fairchild patents; and

(2) enter a declaratory judgment that the manufacture, use, sale, or offer for sale of AOS's product(s) does not constitute an inducement to infringe or contributory infringement of any valid and enforceable claim of Fairchild's patents.

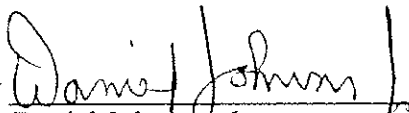
C. Declare this case exceptional under 35 U.S.C. § 285 and award AOS its reasonable attorneys' fees, expenses and costs incurred in this action;

D. Grant AOS such other action and further relief as this Court may deem just and

1 proper, or that AOS may be entitled to as a matter of law or equity.

2  
3 Dated: May 18, 2007

MORGAN, LEWIS & BOCKIUS LLP  
DANIEL JOHNSON, JR.  
ANDREW J. WU  
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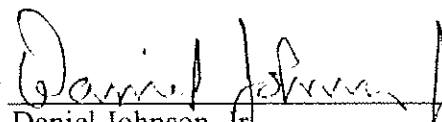
6  
7 By   
8 Daniel Johnson, Jr.  
9 Attorneys for Plaintiffs  
10 ALPHA & OMEGA SEMICONDUCTOR,  
11 LTD., AND ALPHA & OMEGA  
12 SEMICONDUCTOR, INC.

13 **DEMAND FOR JURY TRIAL**

14 AOS hereby requests a trial by jury.

15  
16 Dated: May 18, 2007

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